IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 33703 of 2007(K)

PETITIONER:

PEPSICO INDIA HOLDINGS PVT.LIMITED,
WISE PARK INDUSTRIAL DEVELOPMENT AREA,
KANJIKODE EAST, PALAKKAD - 678 621,
REPRESENTED BY ITS MANAGER - (PLANT ACCOUNTING),
MR.NEERAJ KHETAN.

BY ADV. SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SRI.ANIL D. NAIR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO THE GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. THE INTELLIGENCE OFFICER, SQUAD NO.III,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD - 678 001.

3. THE MANAGER, CITIBANK N.A., RAVIS
ARCADE, 38/1581, M.G.ROAD, PADMA JUNCTION,
ERNAKULAM, COCHIN - 682 035.

4. THE AGRICULTURAL INCOME TAX AND
SALES TAX APPELLATE TRIBUNAL, PALAKKAD
PIN - 678 004.

BY GOVERNMENT PLEADER (TAXES) SRI. V. TEKECHAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)No.33703 OF 2007

Dated this the 15th day of November, 2007

JUDGMENT

Orders have been passed under the Kerala Value Added Tax Act, 2003 imposing penalty on the petitioner. Against the same, the petitioner has approached the Appellate Tribunal by filing Ext.P6 appeal along with Ext.P8 stay petition. The petitioner apprehends that the 2nd respondent would initiate coercive recovery proceedings. The petitioner therefore seeks stay of recovery pursuant to Ext.P2 order imposing penalty, pending disposal of the stay petition before the 4th respondent.

2. I have heard the learned Government pleader also. I am satisfied that when the petitioner has moved the 4th respondent for stay before orders can be passed in the stay petition, the 2nd respondent shall not initiate coercive proceedings.

Accordingly, I dispose of this writ petition with a direction to the 4th respondent to consider and pass appropriate orders on Ext.P8 stay petition submitted by the petitioner within a period of

two months from the date of receipt of a copy of this judgment. Till orders are passed and communicated to the petitioner on Ext.P8 stay petition, no coercive recovery proceedings shall not be initiated against the petitioner for recovery of the penalty imposed by Ext.P2 order.

S. SIRI JAGAN, JUDGE

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